

IN THE
Supreme Court of the United States

October Term, 1976
No. 76-1315

ROBERT CALHOUN JR., Plaintiff-Appellant,

-against-

H. SPENCER KUPPERMAN et al.,
 Defendants-Appellees

APPENDIX TO MOTION TO DISMISS

Robert Calhoun Jr.
111-11 132nd Street
Jamaica, New York 11420
Attorney Pro se

Title	Page
Docket Sheet (71 Civ 2734)	1
Stipulation of Discontinuances	4
Transcript	7
Letter (Sharfman to Diamond)	10
Letter (Diamond to Sharfman) *	11

CIVIL DOCKET
UNITED STATES DISTRICT COURT

JUDGE KNAPP

~~JUDGE TYLER~~

Jury demand date:

71 017.2734

[illegible]

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
3 mailed X	Clerk				
5 mailed ✓	Marshal				
of Action:	Docket fee				
CIVIL RIGHTS ACT, 1964	Witness fees				
on argue at:	Depositions				

BEST COPY AVAILABLE

71 CIV. 2734

JUDGE KNAPP

~~JUDGE KNAPP~~

DATE	PROCEEDINGS	Judge
Jun21-71	Filed Complaint. Issued Summons.	
Jun21-71	Filed Notice of Assignment J. Tyler	
Jul.15-71	Filed stip and order that the time for deft. Riverside Research Institute, to answer complaint is ext. from 7-12-71 to 8-9-71. So Ordered. Tyler, J.	
Jul 20-71	Filed stipulation and order extending The Trustees of Columbia University in the City of New York's time to answer complaint to 8/9/71. So ordered. Tyler, J.	
Aug.18-71	Filed Summons with Marshal's ret. Served: Columbia University, by Dr. McGill on 6-24-71	
	Served: Riverside Research Institute by Walter Harris on 6-24-71	
Sept.7-71	Filed stipulation and order extending defendants' time to answer complaint to 9/10/71. So ordered. Pollack, J.	
Sept.7-71	Filed ANSWER of Trustees of Columbia University to complaint.	TPPC&W
Sept.23-71	Filed stip and order that plttf's time to move pur. to rule 11(a) for a determination of a class is extended to 10-18-71 Tyler J.	
Sept.23-71	Filed stip and order that deft Riverside Research Institute's time to Answer the complaint is extended to 10-1-71 Tyler J.	
Oct.4-71	Filed deft. Riverside ANSWER to complaint	CW&M
Oct.20-71	Filed stip and order that the time for plttf. to move for a determination of a class action is ext. to 11-18-71. Tyler J.	
Nov.1-71	Filed stip and order that the deft. Riverside Research Institute's time to amend its answer to the complaint is ext to 11-18-71. Tyler, J.	
Nov.18-71	Filed stip and order tha plttf's time to move for a determination of a class is ext. to 1-3-72, etc. Tyler, J.	
Jan 5/72	Filed Stip. and Order extending time to answer to 2/14/72. So Ordered Tyler J.	
Feb 15/72	Filed Stip & Order extending time to answer to 4/3/72/ So Ordered Tyler J.	
Mar.13-72	Filed stipulation and order discontinuing action as against deft. Columbia University only. So ordered. Tyler, J.	
Apr.18-72	Filed consent & order to substitution of attorneys for deft's, Riverside Research Institute. So ordered. Tyler, J.	
May 18-72	Filed Affidavit of Walter Harris in opposition to motion of plttf.	
May 18-72	Filed Reply Memorandum of Law.	
May 18-72	Filed Memorandum in support of plttf's motion for declaration of a class action.	
May 18-72	Filed Affidavit of Alice M. Calhoun.	
May 18-72	Filed Notice of Motion Re: Class action determination. Ret. 4/14/72 in ROOM 2704.	
May 18-72	Filed Memorandum of deft. Riverside Research Institute in opposition to plttf's motion for class action determination.	
May 18-72	Filed MEMORANDUM OPINION #38500. Tyler, J. The motion re: Maintain as a class action, is denied upon determination that certain conditions precedent and other requirements of Rule 23 cannot be met in this case. It is so ordered. (mailed notice).	
Jun.8-72	Filed plttf's Notice of motion to reargue be denied, plttf. be allowed to appeal, etc.	
Jun.8-72	Filed plttf's Memorandum	
Jun.8-72	Filed Affdvt. of Service by Mail by I.H. Spencer Kupperman, to deft. on 5-27-72.	
Jun.8-72	Filed deft's Memorandum in opposition to plttf's motion for reargument	
Jun.8-72	Filed Memo Endorsed on motion filed this day. The Motion for reargument is denied, etc. So Ordered. Tyler, J.	
Sept 25-72	Filed plttf's notice of motion Re: Withdrawal of counsel ret 9-22-72.	
Oct 4-72	Filed Order that the motion of H. Spencer Kupperman, for leave to withdraw his appearance as atty of record for plttf is granted. (mailed notice) TYLER, J.	

-cont'd on next page-

Page 3

71 Civil 2734

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Judge
Jan12-73	Filed deft Riverside Research Institute's notice to take deposition of plttf Alice M. Calhoun on 2-23-73.	
Jul 20-73	Filed Stip and Order that all of deft Riverside Research Institute's privileges, rights etc. to suppress or otherwise move, in respect of any and all material obtained from the files or records of local state of federal governmental agencies are reserved to the trial of this action, it being expressly agreed and ordered that this reservation and Riverside Research Institute's deferral until trial of assertion of its privileges, rights etc., the subject matter hereof shall in no way prejudice such privileges, rights or remedies. KNAPP	
Apr5-73	Filed order denying petitioner's motion for an order vacating the denial of petitioner's supplemental petition for writ of habeas corpus Knapp, J. mn by Pro Se.	
Nov.26-73	Pre-trial conference held before Magistrate Goettel.	
Feb.28-74	Filed plttf's notice to take deposition of B.A. Collier.	
Mar.28-74	Filed notice of Pre-trial conference before Magistrate Goettel.	
May. 1-74	PRE-TRIAL CONFERENCE HELD BEFORE MAGISTRATE GOETTEL.	
May.14-74	Filed consent & pre trial order. So ordered. Knapp, J.	
Jun.27-74	Filed Order that action is discontinued without costs. Knapp, J.	
Jul.2-74	Filed stip & order that action is discontinued with prejudice without costs. So ordered. Knapp, J.	
7/12/74	Filed transcript of record of proceedings, dated 6/26/74	
8/9/74	Filed plttf's request assignment of legal representative.	
Jul.15-75	Filed plttf's notice of appeal to the 2nd Cir. from final judgment entered, June 27-1974. Mailed copies to Friedman, Meade, Wasserman & Sharfman & Riverside Research Institute Inc.	

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 ALICE MAE CALHOUN,

5 Plaintiff,

6 -against-

7 RIVERSIDE RESEARCH INSTITUTE,

8 Defendant.
9 -----x

10 B e f o r e :

11 HONORABLE WHITMAN KNAPP,

12 District Judge.

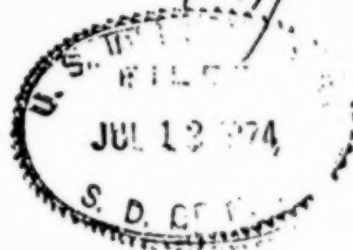
13 United States Court House,
14 New York, N.Y.
15 June 26, 1974

16 A p p e a r a n c e s :

17 Henry P. Baer, Esq.,
18 Attorney for Plaintiff,
19 Michael Diamond, Esq., of Counsel.

20 Friedman, Meade, Wasserman & Sharfman,
21 Attorneys for Defendant,

22 Richard M. Sharfman, Esq., of Counsel.
23
24
25



mb

2

1 THE COURT: Let the record note that in addition
2 to both counsel and the plaintiff, also present are my law
3 clerk, Miss Abigail Pessen, and Mr. Robert Calhoun.

4 Gentlemen, Mrs. Calhoun, I have here a stipulation
5 of settlement which I have accepted and will mark as
6 Court Exhibit No. 1.

7 (Court Exhibit 1 marked.)

8 THE COURT: I understand that Mr. Diamond, acting
9 through Mr. Baer, has represented to the defendants
10 that he estimates the plaintiff's out-of-pocket expenses
11 during this protracted litigation at about \$5,900.
12 Plaintiff's attorney, Mr. Diamond, through himself acting
13 through Mr. Baer, will address a letter to the defendant
14 reading as follows:
15

16 "Having completed discovery and having reviewed
17 the relevant law, we have recommended to our client, Alice
18 M. Calhoun, that she withdraw her complaint and dismiss the
19 action with prejudice. She has accepted our recommendation,
20 and accordingly accepts Riverside Research Institute's offer
21 of reimbursement of her out-of-pocket expenses not including
22 any attorneys' fees."
23

24 Mr. Sharfman, it is my understanding, and I would
25 like it confirmed on the record, that Mrs. Calhoun resigned
from her position at Riverside Research Institute, which

mb 1 3
2 was what date?
3 MRS. CALHOUN: November 30, 1973.
4 THE COURT: November 30, 1973. She resigned as a sa-
5 tisfactory employee.
6 MR. SHARFMAN: Let me go off the record for a
7 minute.
8 (Discussion off the record.)
9 THE COURT: I take it you represent that this
10 settlement takes into account any claims you have against
11 Riverside Research Institute?
12 MRS. CALHOUN: Yes, I am under the impression
13 that once you have settled, there is no recourse.
14 THE COURT: You represent to me that you have no
15 claims of any sort against Riverside Research or anybody
16 there?
17 MRS. CALHOUN: Yes.
18 THE COURT: That is not taken care of by this
19 settlement?
20 MRS. CALHOUN: I do.
21 (Discussion off the record.)
22 (The foregoing statements by the Court were read.)
23 MR. SHARFMAN: It is my understanding, your Honor,
24 that she was an employee in good standing at the time of her
25 resignation.

THE COURT: Good standing, all right.

-0000-

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ALICE M. CALHOUN,

Plaintiff,

-against-

RIVERSIDE RESEARCH INSTITUTE
and COLUMBIA UNIVERSITY,

Defendants.
-----X

STIPULATION OF
DISCONTINUANCE

71 Civ. 2734
W.K.

IT IS HEREBY STIPULATED by and between the undersigned
that the above entitled action be and it hereby is discontinued
with prejudice and without costs to either party.

June 26, 1974

MICHAEL H. DIAMOND, ESQ.
By Henry P. Baw
Attorney for Plaintiff

Stephen Lewis Weiss, Esq. & Robert J. Rosen
Attorneys for Defendant Riverside
Research Institute

SO ORDERED:

U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

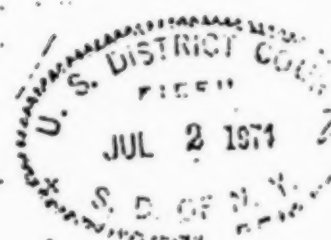
ALICE M. CALHOUN,

Plaintiff,

-against-

RIVERSIDE RESEARCH INSTITUTE
and COLUMBIA UNIVERSITY,

Defendants.



STIPULATION OF
DISCONTINUANCE

71 Civ. 2734
W.K.

IT IS HEREBY STIPULATED by and between the undersigned
that the above entitled action be and it hereby is discontinued
with prejudice and without costs to either party.

June 26, 1974

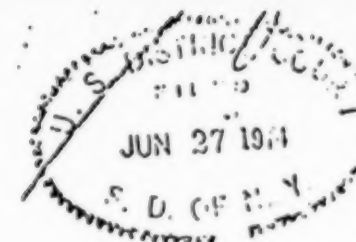
Walter D. Diamond
Attorney for Plaintiff

Freeman, Kohn, Cohen & Rapp
Attorneys for Defendant Riverside
Research Institute

SO ORDERED:

U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



Alice Mae Calhoun

Plaintiff

against

Riverside Research
Institute Defendant

Civil Action

File No.

Calendar No.

71 Civ 2734

This cause having duly come on to be heard before me and the attorneys for all parties
having appeared and advised the Court that all claims asserted herein have been settled, it
is

ORDERED that the above entitled action be and hereby is discontinued without costs
to either party.

Dated June 26, 1974

MICROFILM
JUN 27 1974

Walter D. Diamond
United States District Judge

I hereby consent to the entry of this proposed order:

Walter D. Diamond

Attorney for Plaintiff

Attorney for Plaintiff

Freeman, Kohn, Cohen & Rapp
Attorney for Defendant

Note: Consent should be signed by the responsible Attorney for each side and not a firm
name only.

8

FREEMAN, MEADE, WASSERMAN & SHARFMAN

ATTORNEYS AND COUNSELLORS AT LAW

551 FIFTH AVENUE
NEW YORK, NEW YORK 10017

TELEPHONE: 212-697-6464

CABLE: TRADEJURIS NEW YORK
WUI TELEX: 620892
86165

JAMES M. BRACHMAN
MELVYN FREEMAN
RICHARD C. MEADE
LOUIS SCHNEIDER
RICHARD M. SHARFMAN
JACK GUMPERT WASSERMAN

COUNSEL

JOHN P. MEADE *
* (ADMITTED TO DISTRICT OF
COLUMBIA BAR ONLY)

WASHINGTON OFFICE
MEADE & WASSERMAN
818 EIGHTEENTH STREET, N.W.
WASHINGTON, D. C. 20006
TELEPHONE 202-296-1553
CABLE: TRANSLAW WASHINGTON
WUI TELEX: 922-9287

EUROPEAN OFFICE
MEADE, WASSERMAN & FREEMAN
83, BOULEVARD DE COURCELLES
PARIS 8^e FRANCE
TELEPHONE 267-53-97

July 2, 1974

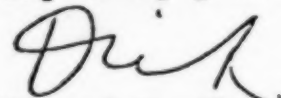
Michael H. Diamond, Esq.
Skadden, Arps, Slate, Meagher & Flom
919 Third Avenue
New York, N.Y. 10022

Alice M. Calhoun v. Riverside
Research Institute and Columbia
University

Dear Mr. Diamond:

I have received your letter of June 26, 1974. Enclosed are my firm's check for \$5,900 payable to Alice M. Calhoun for her out-of-pocket expenses, not including any attorneys' fees, and the stipulation discontinuing the above-entitled action with prejudice and without costs which was signed by Judge Knapp and filed yesterday.

Very truly yours,



Richard M. Sharfman

Encs.
RMS:rs

July 2, 1974

Richard Sharfman, Esq.
Freeman, Meade, Wasserman
& Sharfman
551 Fifth Avenue
New York, New York

Re: Calhoun v. Riverside

Dear Dick:

Although I was sorry to be missing for the final run, I am sure you can appreciate my feelings now that this action has been terminated. I would like to thank you for your courtesy throughout the litigation.

One open matter is my expenses for the deposition in Washington on June 20th, 1974. Air fare both ways amounted to \$59.23 and taxi cabs to and from the airport were \$8.00. Would you please send me a check for \$67.23 at your earliest convenience.

I can't say it was always a pleasure to oppose you in this case, but it was never uninteresting.

Thanks again.

Very truly yours,

Michael H. Diamond